



Rep. Kelly Burke

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1 AMENDMENT TO HOUSE BILL 5632

2 AMENDMENT NO. _____. Amend House Bill 5632 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cemetery Oversight Act is amended by
5 changing Sections 5-20 and 20-5 as follows:

6 (225 ILCS 411/5-20)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 5-20. Exemptions.

9 (a) Full exemption. Except as provided in this subsection,
10 this Act does not apply to (1) any cemetery authority operating
11 as a family burying ground or religious burying ground, (2) any
12 cemetery authority that has not engaged in an interment,
13 inurnment, or entombment of human remains within the last 10
14 years, or (3) any cemetery authority that is less than 3 acres.
15 For purposes of determining the applicability of this
16 subsection, the number of interments, inurnments, and

1 entombments shall be aggregated for each calendar year. A
2 cemetery authority claiming a full exemption shall apply for
3 exempt status as provided for in Section 10-20 of this Act. A
4 cemetery authority claiming a full exemption shall be subject
5 to Sections 10-40, 10-55, and 10-60 of this Act. A cemetery
6 authority that performs activities that would disqualify it
7 from a full exemption is required to apply for licensure within
8 one year following the date on which its activities would
9 disqualify it for a full exemption. A cemetery authority that
10 previously qualified for and maintained a full exemption that
11 fails to timely apply for licensure shall be deemed to have
12 engaged in unlicensed practice and shall be subject to
13 discipline in accordance with Article 25 of this Act.

14 (b) Partial exemption. If a cemetery authority does not
15 qualify for a full exemption and (1) engages in 25 or fewer
16 interments, inurnments, or entombments of human remains for
17 each of the preceding 2 calendar years, (2) operates as a
18 public cemetery, or (3) operates as a religious cemetery, then
19 the cemetery authority is partially exempt from this Act but
20 shall be required to comply with Sections 10-23, 10-40, 10-55,
21 10-60, subsections (a), (b), (b-5), (c), (d), (g), and (h) of
22 Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30, 20-35,
23 20-40, 25-3, and 25-120, and Article 35 of this Act. Cemetery
24 authorities claiming a partial exemption shall apply for the
25 partial exemption as provided in Section 10-20 of this Act. A
26 cemetery authority that changes to a status that would

1 disqualify it from a partial exemption is required to apply for
2 licensure within one year following the date on which it
3 changes its status. A cemetery authority that maintains a
4 partial exemption that fails to timely apply for licensure
5 shall be deemed to have engaged in unlicensed practice and
6 shall be subject to discipline in accordance with Article 25 of
7 this Act.

8 (c) Nothing in this Act applies to the City of Chicago in
9 its exercise of its powers under the O'Hare Modernization Act
10 or limits the authority of the City of Chicago to acquire
11 property or otherwise exercise its powers under the O'Hare
12 Modernization Act, or requires the City of Chicago, or any
13 person acting on behalf of the City of Chicago, to comply with
14 the licensing, regulation, investigation, or mediation
15 requirements of this Act in exercising its powers under the
16 O'Hare Modernization Act.

17 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

18 (225 ILCS 411/20-5)

19 (Section scheduled to be repealed on January 1, 2021)

20 Sec. 20-5. Maintenance and records.

21 (a) A cemetery authority shall provide reasonable
22 maintenance of the cemetery property and of all lots, graves,
23 crypts, and columbariums in the cemetery based on the type and
24 size of the cemetery, topographic limitations, and contractual
25 commitments with consumers. Subject to the provisions of this

1 subsection (a), reasonable maintenance includes:

2 (1) the laying of seed, sod, or other suitable ground
3 cover as soon as practical following an interment given the
4 weather conditions, climate, and season and the
5 interment's proximity to ongoing burial activity;

6 (2) the cutting of lawn throughout the cemetery at
7 reasonable intervals to prevent an overgrowth of grass and
8 weeds given the weather conditions, climate, and season;

9 (3) the trimming of shrubs to prevent excessive
10 overgrowth;

11 (4) the trimming of trees to remove dead limbs;

12 (5) maintaining, repairing, or removing, if necessary,
13 drains, water lines, roads, buildings, fences, and other
14 structures; and

15 (6) keeping the cemetery premises free of trash and
16 debris.

17 In determining whether a cemetery authority provides
18 reasonable maintenance of the cemetery property, the
19 Department shall consider:

20 (1) the cemetery authority's contractual obligations
21 for care and maintenance;

22 (2) the size of the cemetery;

23 (3) the extent and use of the cemetery authority's
24 financial resources;

25 (4) the standard of maintenance of one or more
26 similarly situated cemeteries; in determining whether a

1 cemetery is similarly situated, the Department shall
2 consider the cemetery's size, location, topography, and
3 financial resources, and whether the cemetery is a
4 fraternal cemetery, a religious cemetery, a public
5 cemetery, a cemetery owned and operated by a cemetery
6 association, or a licensed cemetery.

7 Reasonable maintenance by the cemetery authority shall not
8 preclude the exercise of lawful rights by the owner of an
9 interment, inurnment, or entombment right, or by the decedent's
10 immediate family or other heirs, in accordance with reasonable
11 rules and regulations of the cemetery or other agreement of the
12 cemetery authority.

13 In the case of a cemetery dedicated as a nature preserve
14 under the Illinois Natural Areas Preservation Act, reasonable
15 maintenance by the cemetery authority shall be in accordance
16 with the rules and master plan governing the dedicated nature
17 preserve.

18 A cemetery authority accused of violating the reasonable
19 maintenance standard set forth in this Section shall have a
20 reasonable opportunity to cure the violation. The cemetery
21 authority shall have 10 business days after receipt of notice
22 to cure the violation. If a cemetery authority cannot cure the
23 violation within 10 business days, then the cemetery authority
24 may request a time extension in order to cure the violation.
25 The request for an extension shall be made in writing to the
26 Department and must be postmarked within 10 business days after

1 receipt of the notice of the alleged violation. The request
2 shall outline all reasons for the extension and an estimated
3 date by which the cure will be accomplished. Acceptable reasons
4 include, without limitation, delays caused by weather
5 conditions, season or climate, equipment failures, or
6 acquisitions of materials or supplies being addressed by the
7 authority in a timely manner, and unexpected temporary absences
8 of personnel. The Department may approve or deny the extension.
9 If the extension is denied, then the cemetery authority must
10 cure the violation within 10 business days after the date of
11 receipt of the Department's extension denial. If the extension
12 is granted, then the cemetery authority must cure the violation
13 within the extended period of time. A cemetery authority that
14 does not cure the violation within the appropriate period of
15 time shall be subject to discipline in accordance with Article
16 25 of this Act.

17 (b) A cemetery authority, before commencing cemetery
18 operations or within 6 months after the effective date of this
19 Act, shall cause an overall map of its cemetery property,
20 delineating all lots or plots, blocks, sections, avenues,
21 walks, alleys, and paths and their respective designations, to
22 be filed at its on-site office, or if it does not maintain an
23 on-site office, at its principal place of business. The
24 cemetery authority shall update its map and index described in
25 subsection (b-5) within a reasonable time after any expansion
26 or alteration of the cemetery property. A cemetery manager's

1 certificate acknowledging, accepting, and adopting the map
2 shall also be included with the map. The Department may order
3 that the cemetery authority obtain a cemetery plat and that it
4 be filed at its on-site office, or if it does not maintain an
5 on-site office, at its principal place of business if (1) a
6 human body that should have been interred, entombed, or inurned
7 at the cemetery after the effective date of this amendatory Act
8 of the 97th General Assembly is missing, displaced, or
9 dismembered and (2) the cemetery map contains serious
10 discrepancies.

11 In exercising this discretion, the Department shall
12 consider whether the cemetery authority would experience an
13 undue hardship as a result of obtaining the plat. The cemetery
14 plat, as with all plats prepared under this Act, shall comply
15 with the Illinois Professional Land Surveyor Act of 1989 and
16 shall delineate, describe, and set forth all lots or plots,
17 blocks, sections, avenues, walks, alleys, and paths and their
18 respective designations. A cemetery manager's certificate
19 acknowledging, accepting, and adopting the plat shall also be
20 included with the plat.

21 (b-5) A cemetery authority shall maintain an index that
22 associates the identity of deceased persons interred,
23 entombed, or inurned after the effective date of this Act with
24 their respective place of interment, entombment, or inurnment.

25 (c) The cemetery authority shall open the cemetery map or
26 plat to public inspection. The cemetery authority shall make

1 available a copy of the overall cemetery map or plat upon
2 written request and shall, if practical, provide a copy of a
3 segment of the cemetery plat where interment rights are located
4 upon the payment of reasonable photocopy fees. Any unsold lots,
5 plots, or parts thereof, in which there are not human remains,
6 may be resurveyed and altered in shape or size and properly
7 designated on the cemetery map or plat. However, sold lots,
8 plots, or parts thereof in which there are human remains may
9 not be renumbered or renamed. Nothing contained in this
10 subsection, however, shall prevent the cemetery authority from
11 enlarging an interment right by selling to its owner the excess
12 space next to the interment right and permitting interments
13 therein, provided reasonable access to the interment right and
14 to adjoining interment rights is not thereby eliminated.

15 (d) A cemetery authority shall keep a record of every
16 interment, entombment, and inurnment completed after the
17 effective date of this Act. The record shall include the
18 deceased's name, age, date of burial, and the specific location
19 of the interred, entombed, or inurned human remains. The
20 specific location shall correspond to the map or plat
21 maintained in accordance with subsection (b) of this Section.

22 (e) (Blank).

23 (f) A cemetery authority shall make available for
24 inspection and, upon reasonable request and the payment of a
25 reasonable copying fee, provide a copy of its rules and
26 regulations. A cemetery authority shall make available for

1 viewing and provide a copy of its current prices of interment,
2 inurnment, or entombment rights.

3 (g) A cemetery authority shall provide access to the
4 cemetery every day of the year from sunrise to sunset each day
5 ~~under the cemetery authority's reasonable rules and~~
6 ~~regulations.~~

7 (h) A cemetery authority shall be responsible for the
8 proper opening and closing of all graves, crypts, or niches for
9 human remains in any cemetery property it owns.

10 (i) A licensed cemetery authority shall keep in this State
11 and use in its business such records as will enable the
12 Department to determine whether such licensee or trustee is
13 complying with the provisions of this Act and with the rules,
14 regulations, and directions made by the Department under this
15 Act. The licensed cemetery authority shall keep the records in
16 electronic or written format at the location identified in the
17 license issued by the Department or as otherwise agreed by the
18 Department in writing. The books, accounts, and records shall
19 be accessible for review upon demand of the Department.

20 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

21 Section 99. Effective date. This Act takes effect July 1,
22 2014.".